



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB2348**

Introduced 2/16/2005, by Rep. Renee Kosel

**SYNOPSIS AS INTRODUCED:**

625 ILCS 5/6-520

from Ch. 95 1/2, par. 6-520

Provides that a disqualification of commercial driving privileges by the Secretary of State does not become effective until the person is notified in writing, by certified mail (rather than merely in writing), of the impending disqualification and advised that a hearing may be requested. Effective immediately.

LRB094 10121 DRH 40382 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Section 6-520 as follows:

6 (625 ILCS 5/6-520) (from Ch. 95 1/2, par. 6-520)

7 Sec. 6-520. CDL disqualification or out-of-service order;  
8 hearing.

9 (a) A disqualification of commercial driving privileges by  
10 the Secretary of State, pursuant to this UCDLA, shall not  
11 become effective until the person is notified in writing, by  
12 certified mail, by the Secretary, of the impending  
13 disqualification and advised that a CDL hearing may be  
14 requested.

15 (b) Upon receipt of the notice of a CDL disqualification  
16 not based upon a conviction, an out-of-service order, or  
17 notification that a CDL disqualification is forthcoming, the  
18 person may make a written petition in a form, approved by the  
19 Secretary of State, for a CDL hearing. Such petition must state  
20 the grounds upon which the person seeks to have the CDL  
21 disqualification rescinded or the out-of-service order removed  
22 from the person's driving record. Within 10 days after the  
23 receipt of such petition, it shall be reviewed by the Director  
24 of the Department of Administrative Hearings, Office of the  
25 Secretary of State, or by an appointed designee. If it is  
26 determined that the petition on its face does not state grounds  
27 upon which the relief may be based, the petition for a CDL  
28 hearing shall be denied and the disqualification shall become  
29 effective as if no petition had been filed and the  
30 out-of-service order shall be sustained. If such petition is so  
31 denied, the person may submit another petition.

32 (c) The scope of a CDL hearing, for any disqualification

1 imposed pursuant to paragraphs (1) and (2) of subsection (a) of  
2 Section 6-514 shall be limited to the following issues:

3 1. Whether the person was operating a commercial motor  
4 vehicle;

5 2. Whether, after making the initial stop, the police  
6 officer had probable cause to issue a Sworn Report;

7 3. Whether the person was verbally warned of the  
8 ensuing consequences prior to submitting to any type of  
9 chemical test or tests to determine such person's blood  
10 concentration of alcohol, other drug, or both;

11 4. Whether the person did refuse to submit to or failed  
12 to complete the chemical testing or did submit to such test  
13 or tests and such test or tests disclosed an alcohol  
14 concentration of at least 0.04 or any amount of a drug,  
15 substance, or compound resulting from the unlawful use or  
16 consumption of cannabis listed in the Cannabis Control Act  
17 or a controlled substance listed in the Illinois Controlled  
18 Substances Act in the person's system;

19 5. Whether the person was warned that if the test or  
20 tests disclosed an alcohol concentration of 0.08 or more or  
21 any amount of a drug, substance, or compound resulting from  
22 the unlawful use or consumption of cannabis listed in the  
23 Cannabis Control Act or a controlled substance listed in  
24 the Illinois Controlled Substances Act, such results could  
25 be admissible in a subsequent prosecution under Section  
26 11-501 of this Code or similar provision of local  
27 ordinances; and

28 6. Whether such results could not be used to impose any  
29 driver's license sanctions pursuant to Section 11-501.1.

30 Upon the conclusion of the above CDL hearing, the CDL  
31 disqualification imposed shall either be sustained or  
32 rescinded.

33 (d) The scope of a CDL hearing for any out-of-service  
34 sanction, imposed pursuant to Section 6-515, shall be limited  
35 to the following issues:

36 1. Whether the person was driving a commercial motor

1 vehicle;

2 2. Whether, while driving such commercial motor  
3 vehicle, the person had alcohol or any amount of a drug,  
4 substance, or compound resulting from the unlawful use or  
5 consumption of cannabis listed in the Cannabis Control Act  
6 or a controlled substance listed in the Illinois Controlled  
7 Substances Act in such person's system;

8 3. Whether the person was verbally warned of the  
9 ensuing consequences prior to being asked to submit to any  
10 type of chemical test or tests to determine such person's  
11 alcohol, other drug, or both, concentration; and

12 4. Whether, after being so warned, the person did  
13 refuse to submit to or failed to complete such chemical  
14 test or tests or did submit to such test or tests and such  
15 test or tests disclosed an alcohol concentration greater  
16 than 0.00 or any amount of a drug, substance, or compound  
17 resulting from the unlawful use or consumption of cannabis  
18 listed in the Cannabis Control Act or a controlled  
19 substance listed in the Illinois Controlled Substances  
20 Act.

21 Upon the conclusion of the above CDL hearing, the  
22 out-of-service sanction shall either be sustained or removed  
23 from the person's driving record.

24 (e) If any person petitions for a hearing relating to any  
25 CDL disqualification based upon a conviction, as defined in  
26 this UCDLA, said hearing shall not be conducted as a CDL  
27 hearing, but shall be conducted as any other driver's license  
28 hearing, whether formal or informal, as promulgated in the  
29 rules and regulations of the Secretary.

30 (f) Any evidence of alcohol or other drug consumption, for  
31 the purposes of this UCDLA, shall be sufficient probable cause  
32 for requesting the driver to submit to a chemical test or tests  
33 to determine the presence of alcohol, other drug, or both in  
34 the person's system and the subsequent issuance of an  
35 out-of-service order or a Sworn Report by a police officer.

36 (g) For the purposes of this UCDLA, a CDL "hearing" shall

1 mean a hearing before the Office of the Secretary of State in  
2 accordance with Section 2-118 of this Code, for the purpose of  
3 resolving differences or disputes specifically related to the  
4 scope of the issues identified in this Section. These  
5 proceedings will be a matter of record and a final appealable  
6 order issued. The petition for a CDL hearing shall not stay or  
7 delay the effective date of the impending disqualification.

8 (h) The CDL hearing may be conducted upon a review of the  
9 police officer's own official reports; provided however, that  
10 the petitioner may subpoena the officer. Failure of the officer  
11 to answer the subpoena shall be grounds for a continuance.

12 (Source: P.A. 90-43, eff. 7-2-97; 91-357, eff. 7-29-99.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.